

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

SEALED

UNITED STATES OF AMERICA,)
Plaintiff,)
v.) CRIMINAL NO. 1:19-CR-305 (1)LY
)
David Randall JAKOBEIT,)
Defendant.)

UNITED STATES' MOTION FOR DOWNWARD DEPARTURE

Comes now the United States Attorney, for the Western District of Texas, by and through the undersigned Assistant United States Attorney, and files this Motion for Downward Departure.

Pursuant to the plea agreement with David Randall JAKOBEIT, the United States hereby requests that the Court consider the nature and extent of his cooperation with respect to the sentence imposed in this case.

David Randall JAKOBEIT cooperated with law enforcement officers after he negotiated a plea agreement with the assistance of his attorney. His cooperation, led in part to the conviction of his co-defendant Amy WEBER. This Court sentenced WEBER to 42 months incarceration on June 12, 2020. In addition, the defendant offered information to state officers regarding a state level drug dealer.

In light of the nature and extent of the Defendant's cooperation with law enforcement authorities, the United States hereby requests that the Court depart downward from the applicable Guideline range in this case pursuant to section 5K1.1 of the Guidelines. Section 5K1.1. This section states:

(a) The appropriate reduction shall be determined by the court for reasons stated that may include, but are not limited to, consideration of the following conduct:

- (1) the court's evaluation of the significance and usefulness of the defendant's assistance, taking into consideration the government's evaluation of the assistance rendered;
- (2) the truthfulness, completeness, and reliability of any information or testimony provided by the defendant;
- (3) the nature and extent of the defendant's assistance;
- (4) any injury suffered, or any danger or risk of injury to the defendant or his family resulting from his assistance;
- (5) the timeliness of the defendant's assistance.

The information provided above indicates conduct relevant to factors 5K1.1(a)(1-4). As noted, the defendant agreed to cooperate pursuant to his plea agreement.

As with all cooperating defendants in any investigation several additional factors are important in the analysis of this request.

First, JAKOBEUT has a significant criminal history reflected in category IV. His convictions involve theft and controlled substance offenses.

Second, he has a significant, life-long poly-substance abuse problem. This should be addressed in the sentence imposed by the Court.

Third, his cooperation in this case has assisted the officers and agents as noted above. The information he provided was not known to law enforcement officers and contributed to the state case noted above.

Finally, the applicable guideline range, in light of his cooperation, should be sufficient in this case.

The probation officer found that the Defendant has an adjusted offense level of 27, criminal history category IV, for a guideline range 100 - 125 months incarceration.

In light of the Defendant's cooperation in this investigation and the sentence imposed on his co-defendant, the United States would suggest that a sentence of 60 months would be appropriate in this case followed by a term of 3 years supervised release.

Wherefore premises considered, the United States requests that this motion be granted.

John F. Bash
UNITED STATES ATTORNEY
/s/Mark H. Marshall
MARK H. MARSHALL
Assistant U. S. Attorney
State Bar No. 130325004

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Government's Motion for Correction of Sentence has been filed UNDER SEAL using the Court's electronic filing system (ECF), and that a copy of this motion has been sent to counsel of record noted below, by electronic mail on this 10th day of August, 2020:

Daniel Betts
Attorney at Law

/s/Mark H. Marshall
MARK H. MARSHALL
Assistant U. S. Attorney

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ORDER

Came on to be considered United States' Motion for Correction of Sentence for Changed Circumstances and the Court having considered said motion, hereby

ORDERS that United States' motion is GRANTED.

SIGNED on this the ____ day of _____, 2020.

UNITED STATES DISTRICT JUDGE